

1909-059 Chancery Cause: John D. Morgan vs. John Owens alias John Cotrell & Lee Co.

Kinzer, Cotrell

CA - Debt
T - Property

- Deed

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County:

Your orator John D.Morgan,humbly complaining would respectfully represent and show unto your honor as follows:

That at the May term of the Circuit Court for Lee County,1904 your orator obtained a judgement against John Owens for the sum of \$80.35 with interest thereon from the 17th day of Feby,1904,till paid and \$8.74 costs;that on the 1st day of Aug.1904 the said Owens paid thereon the sum of \$16.00,and the balance of the said judgement still remains and is due and unpaid. A copy of the same from the judgement lien Book is here filed as part of this bill as exhibit 1.

Your orator would furthur represent and show unto your honor that the said John Owens is the owner in fee of a one half undivided interest in a tract of land where he now lives,containing about _____ acres,more or less, and which was conveyed to him ~~and his wife~~ by Don Wilson. His said wife is now dead leaving one child the issue of the marriage of the said Owens and wife, and to the undivided interest of his said wife he is entitled to a life estate in the remainder of the said tract of land so conveyed to him and his said wife as aforesaid. Said tract of land is situated in the ^{West Shore} ~~Rock Hill~~ District.

Yours orator would furthur represent and show unto your honor that the said judgement as aforesaid of the said of the said debt as aforesaid is the only judgement or other lien against said tract of land,and the same will not rent for a sum sufficient to pay said debt in five years.

This judgment is the only lien against said land.
The prayer therefore of your orator is that the said tract of land, or so much thereof as shall be neccessary to pay said debt,be sold, that the said John Owens be made a party defendant to this suit and be required to answer the same but not under oath,that being expressly waived, and that out of the proceeds of the sale of the said land the said debt as aforesaid and the costs of this suit and expenses of sale be paid, and may all other,furthur and general relief be granted your orator that the nature of his cause and good conscience requires and he will ever pray &c.,

Plaintiff's Pro.

P.Q.

John D. Morgan

2 1/4 Bill in Chy.

John Owens.

Pennington Bros.
ATTORNEYS AT LAW,
JONESVILLE AND PENNINGTON GAP VA.

To the Hon.H.A.W.Sheen,Judge of the Circuit Court for Lee County:

Your orator,John D.Morgan,would respectfully represent and show unto your honor that hertofore he filed his original bill at the February rules 1906 of your honors court,against John Owes, to which the said John Owens has filed no plea nor made any answer; and asking that said original bill be here treated as copied at length,your orator ~~xxxxx~~ asks to be allowed to file his amended and supplemental bill,as follows:

Beside the allegation in said original bill as to the judgement of your orator against John Owens,your orator would represent that by deed dated the 17th day of June,1895,David Wilson conveyed to the said John Owens and Frances E.Owens,a tract of land containing 25 acres,which deed has not been recorded,and that on the 20th day of Feby 1900,C.Harris by deed conveyed another small tract of 5 acres to the said Fances E.Owens,who was the wife of the said John Owens,but this deed is not recorded either. The said John Cotrell became indebted and in order to transfer the interest which he had in said 25 acres of land,the said John Owens and wife joined in a deed and conveyed said tract of land to James Cotrell,and immediately James Cotrell and his wife joined in another deed and conveyed the same tract of land to the said Frances ^{Owens} (Cotrell),and this deed is dated the 6th day of Feby,1897,and is recorded in D.B. NO,33,p 304, a copy of which is here filed as part of this bill as exhibit "Z". Your orator alleges that the deed which the said John Owens and wife made to James Cotrell is not recorded,and that therefore the said deed passing the title out of him is null and void as to the said judgement of your orator. Your orator alleges and will show unto your honor that the said Frances E.Owens is now dead,that she and John Owens had one child,namely, Elsie Owens,now the wife of one Kinser,thereby giving the said John Owens a life estate in one half of the said 25 acre tract and a life estate in said 5 acre tract,as tenant by the courtesy.

The prayer thereofr of your orator is,in addition to that asked in said original bill,that the said John Owens and said

Else Kinser be made parties defendant to this amended bill, and be required to answer this and the allegations of the original bill, but they need not do so under oath, this being expressly waived, that they file with their said answer said unrecorded deeds as aforesaid, that the said deed of the said John Cotrell and wife to the said James Cotrell be adjudged null and void and be set aside as to the said judgement of your said orator, and your orators judgement be decreed a lien upon said life estate in all said land and upon the fee simple estate in one half of said tract of 25 acres, that enough thereof be sold to satisfy the debts of your said orator, said judgement as aforesaid, and that all other and further relief be granted your orator that the nature of his cause and good conscience requires and he will ever pray &c.

Pennington Bros. P. Q.

John D. Maynor
v. $\frac{1}{2}$ Amundson Bice

John Devers et al

1906 2nd April Rules
Amended Bill filed
Spa. executed & D.N.
" 1st May Rules
D. N. confirmed &
cause set for hearing.

John S. Meyer Counselor at
23. In Chancery
John Owens - Defendant
 On Motion of Counsel
 for plaintiff ^{statement} that all matters
 had been settled in this cause
 The same is stricken from
 the docket.

John D. Morgan

vs. { Decree
final

John Owens it is

Entered in C.C.B.
T. page 478.

Enters this

May 5 - 1959

H. C. W. Skene

John D. Morgan -----Complainant.

Vs. In Chancery.

John Owens et al -----Defendant.

This cause came on this day to be heard upon the papers formerly read therein and the report of R. L. Pennington, special Commissioner, showing payment of the purchase money due by James Cottrell for the tract of land purchased in this cause and showing that the said Jas. Cottrell had ~~been~~ assigned his interest in said tract of land for valuable consideration to Rev. John W. Ely and was argued by counsel.

On consideration of all which it is adjudged ordered and decreed that the said report of said Pennington be and the same is hereby approved and confirmed. And the said R. E. Pennington, ~~who~~ is hereby appointed a special commissioner for the purpose of executing to the said John W. Ely a deed of conveyance with covenants of special warranty, conveying said tract of land sold herein to the said John W. Ely, in which said deed it is ordered that the said Jas. Cottrell and his wife shall join for the purpose of releasing to the said John W. Ely all their interest in said tract of land, and he will report his action to the Court.

And it now appearing to the Court that the said Pennington who was ~~hereinbefore~~ appointed a special commissioner to convey the land sold in this cause to John W. Ely, assignee of Jas. Cottrell, has performed his duty by making said deed which has been filed in this cause, and no exceptions being taken to the said report or said deed, the same is hereby approved and confirmed, and it being stated ~~that~~ *by* said commissioner, ~~that~~ *that* said Ely has paid the usual commission fee for executing said deed, the said Pennington will deliver the said deed of conveyance to the said Ely.

The line of the front of
And it further appearing to the Court from a statement of counsel in this cause that a portion of the tract of land conveyed to the said John W. Ely is in fee and a portion of the said tract of land only a life estate therein, and the said Ely expressly desires to have said land partitioned, so as to lay off to him that part of said tract

of land to which he is entitled in fee, from that on which he only is entitled to a life estate, and having moved the Court for commissioners for the purpose of carrying out said wish, it is therefore further adjudged ordered and decreed that ^{M. M. Speck} ~~S. C. Elliot~~, A. J. Myers, and Peter F. Chance, who are hereby appointed special commissioners for the purpose will partition said tract of land between the said John W. Ely and Elsie Kinser, the owner of the reversion in said tract of land after the life estate of the said John Owens therein, but before entering upon their duty required under this decree, said commissioners will give to the said John W. Ely and Elsie Kinser five days notice of the time of their meeting upon said land for the purpose of said partition. And they will report their action to the next term of this court. And this cause is continued.

John S. Maynor

83 Decem
3

John Owens.

Entered in C.O.B.
8, page 332 re.

Enter this

Sept 28 1907

J. A. W. Stinson

JOHN D. MORGAN, ----- COMPLAINANT.

VS.

IN CHANCERY.

JOHN OWENS. ----- DEFENDANT.

This cause came on this day to be heard upon the papers formerly read therein and the report of special commissioner, R. L. Pennington filed herein on Sept. 19. 1906 showing the sale of the land in the bill and proceedings mentioned to James Cotrell and was argued by counsel.

On consideration of all which the said report being unaccepted to the same is hereby approved and confirmed and the sale therein reported is hereby approved and confirmed, and this cause is continued.

John D. Morgan
neg.

See

John D. Morgan

Entered in
Col. B. & page
L.H.P.

Entered in
18, 1906

H. C. W. S. 11

*and this cause is con-
firmed and the sale therein
is hereby approved and confirmed
and the said report being unaccepted
on consideration of which*

Filed herein on Sept. 13, 1903 showing the sale of the land in the

road therein and the report of special commissioner, H. L. Pennington

This cause came on this day to be heard upon the depositions

JOHN OWENS, ----- DEPENDANT.

VS. ----- IN CHANCERY.

JOHN D. MORGAN, ----- COMPLAINANT.

John D. Morgan

Complainant

vs

In Showing

John Owens and Elsie Kinser

Defendants.

This cause came on this day to be heard upon the bill and the amended bill of the complainant, and exhibits filed therewith, and was argued by counsel.

On consideration of all which, and it appearing to the court that said defendants have been duly served with process, and that each failing to appear, plead or answer said bill and amended bill of said complainant is hereby taken for confessed. And it is adjudged, ordered and decreed that the said John D. Morgan, recover of the said John Owens the sum of (\$30.35) Eighty dollars and Thirty-five cents, with interest thereon from the 11th day of February, 1904, till paid, and (\$3.74) Eight dollars and Seventy-four cents, for costs of the judgment at law shown by *Subject to a Credit of \$16.00 Aug 1, 1904,* exhibit No-1 in said plaintiff's bill. And it further appearing to the court from the said bill and exhibits therewith, ~~that~~ at the May term 1904, ~~that~~ the said John D. Morgan recovered on the law side of this court the above named sum of money, and that on the 17th day of June, 1895, David Wilson conveyed to John Owens and Francis E. Owens a tract of land containing (25) Twenty-five acres, and that John Owens and Francis E. Owens conveyed said tract of land to one James Cottrell, and that the said deed to said Cottrell was ^{is} never recorded as required by law, and that the said James Cottrell and wife afterwards conveyed said tract of land to Francis Cottrell as shown by exhibit "Z" of said plaintiff's bill, and it further appearing to the court that the said Francis ^{Cottrell} departed this life intestate leaving the said ~~Elsie~~ Elsie Kinser (nee Cottrell) her only heir, who was at the time of this suit of full age, it is therefore adjudged, ordered and decreed that the said deed of the said John Owens and wife to said James Cottrell is null and void, as to the interest which the said John Owens owned therein and ^{is} subject to the lien of the said judgment, which the said complainant hereby obtained in the Circuit

Court for Lee County, as above stated and said deed together with the ~~xxx~~ said deed of James Cottrell to said Francis Cottrell is hereby set aside and ordered for nought as to the said judgment, the said judgment decreed to be a lien of said undivided interest of said John Owens there, in . And it further appearing to the court that the said Francis Owens died intestate leaving said undivided interest in said tract of Twenty-five acres, also the entire interest in the five acre tract of land conveyed to her by C. Harris, February, the 20th, 1900, and that the said John Owens is entitled to a life estate therein, it is therefore further adjudged, ordered and decreed that the said plaintiff's judgment is hereby declared to be a lien thereon from the date thereof, and it further appearing to the court that the lien of the said plaintiff is the only lien against against the land of the said John Owens and that the same will not rent for a sum sufficient in five years to pay said judgment, it is therefore adjudged ordered and decreed , that unless the said sum of money together with the costs of this suit be paid within Thirty days from this date, then R. L. Pennington, who is hereby appointed a special commissioner , will after advertising the time, terms and place of sale, for Thirty days by written or printed notices posted at the front door of the court house, in the neighborhood of the said lands, and at such other places as he may deem proper, make sale of said tracts of land and said life interest in said land, at the front door of the court house at public auction, to the highest bidder ~~for cash in hand~~, on a credit of twelve months time, except a sum sufficient to pay the costs of this suit and commissions of sale, which sum he will require to be paid in hand , and for the deferred payments he will take a bond from the purchaser with good personal security. And he will report his action to the court; but, before entering upon his duties herein imposed upon him, the said R. L. Pennington will execute a bond in the penalty of (\$200) Two Hundred dollars, before the clerk of this court, conditioned as the law requires in such cases. And this cause is continued.

John S. Maynor

v. ³ ~~May~~ ^{Deane} for
Dale.

John Deane, 1400

Entered in, A.B.B.
8 Page 170 &c.

Enter this name

May 25, 1906

H.A. as Slugg

John D. Morgan,

Complainant,

vs In Chancery,

John Owens,

Defendant.

This cause came of this day to be heard upon the bill of the complainant, and exhibits filed therewith, and it appearing to the court that the defendant John Owens, has been duly summoned for 15 days prior to the first day of this term of the court, and he failing to appear, plead or answer, the said bill of the said complainant is taken for confessed.

On consideration of all which, it is adjudged ordered and decreed that the said plaintiff recover of the said defendant the sum of \$30.35, with interest thereon from the 17th day of Feby, 1904 till paid and \$3.74 the cost of the judgement set out in the plaintiff's bill, subject to a credit of \$16.00 as of Aug. 1, 1904, and that the said plaintiff also recover the cost of this suit against the said defendant; and unless the said sum of money due said plaintiff as aforesaid and the costs of this suit be paid within 30 days from this date, then Robert L. Pennington, who is hereby appointed a special commissioner for the purpose, will after having advertised the time, terms and place of sale for 30 days by written or printed notices posted at the front door of the court house of Lee County, in the neighborhood of the said land, and such other place or places as said Pennington shall see cause to advertise, and after having executed bond before the clerk of this court in the penalty of \$200, conditioned as the law in such cases requires, proceed to make sale of the land in the bill and proceedings mentioned at the front door of the court house of Lee County at public outcry to the highest bidder on a credit of 12 months time, except a sum sufficient to pay the costs of the said suit and the commissions of sale, which sum he will require to be paid in hand, and for the deferred payments he will take bonds payable to him self as said commissioner with good personal security, and report his action hereunder at the next term of this court and this cause is continued.

John D. Mayors

v. $\frac{1}{2}$ Decree for
 $\frac{1}{2}$ sale

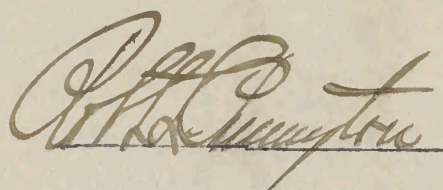
John Owens.

Enter this Decree
July 20, 1906

To the Honorable H. A. W. Skeen, Judge of the Circuit Court for
Lee County:

Your undersigned special commissioner in the Chancery cause
of John D. Morgan against John Owens, reports that James Cottrell,
the purchaser of said tract of land sold in this cause, has paid the
full amount of his purchase price and has sold his interest in said
land to John W. Ely, and requests that deed to said tract of land be
made to the said John W. Ely, and asks permission to join in the com-
missioners in conveying said tract of land.

Respectfully submitted.

 Commissioner.

John D. Morgan
Opus
23. ~~3~~ Report

John D. Morgan

~~John D. Morgan~~

~~Sept 28 1407~~

John D. Morgan,

Complainant,

vs In Chancery,

John Owens et al.,

Defendants.

To the Hon. H. A. W. Skeen, judge of the Circuit Court for Lee County,

The undersigned Special Commissioner reports that pursuant to a decree rendered in the above styled cause at the May term, 1906, after having advertised the time, terms and place of sale as required by said decree, proceeded at the front door of the court house at public auction on the 17th day of Sept, 1906, in the presence of a large crowd to make sale of the land and interest in land of the said John Owens which was ordered to ~~xxx~~ be sold, and after crying the sale for some time, the same was knocked down to James Cotrell, as the highest bidder at the price of \$115.00. Said Cotrell paid your Commissioner the sum of \$75.00 cash and executed his note with G. W. Orsburn as surety for the remainder, \$40.00.

Respectfully submitted,

Robert L. Cunningham

Comr.

Cmts. 29.00
Comr. 5.75
34.75
75.00
34.75
40.25

John D. Morgan, Complt.

vs Report of Sale.

John Owens, et al, Dedts.

.....

Filed Sept 19, 1906.

H. C. P. Ewing Clerk.

This deed made this 6 day of February 1897, between James Cotterell and Sarah his wife of the first part, and Frances E. Owens of the second part, both parties of the County of Lee and State of Virginia. Witnesseth: That for and in consideration of the sum of one hundred and two dollars and fifty cents to them in hand paid by the party of the second part, the receipt whereof is hereby acknowledged; Hath bargained, and sold, and by these presents doth bargain and sell unto the said party of the second part, and to her heirs forever, all of a certain tract or parcel of land, lying on the East side of Hardie's creek adjoining the lands of David Wilson and others, containing by estimation 25 acres be the same more or less, Bounded as follows, Beginning at a rock in Morelock's line, thence N. 23 W 65 1/2 poles to a stone thence S 70 W 42 1/4 po to a spanish Oak on a hill side East of said creek, thence along the hill side S 5 W 78 po to a spanish oak in Morelock's line and with the same N 67 E. 78 po to the beginning, Together with all singular, ^{the} hereditaments and appurtenances thereunto belonging, to have and to hold unto the said party of the second part and to her heirs and assigns forever, and the parties of the first part covenants with the said party of the second part, that they have good right and title to the above described tract of land, and that they will warrant generally the title to the same. In witness whereof we have hereunto set our hands and seals the day and year first above written.

his
James x Cotterell (Seal)
mark
her
Sarah J. x Cotterell (Seal)
mark

Lee County towit:

I, H. p. Thompson a Justice of the Peace for the County aforesaid and state of Virginia, do certify that James Cotterell and Sarah Cotterell whose names are signed to the above writing bearing date on the 6 day of February 1897 have acknowledged the same before me

in my county aforesaid. Given under my hand this the 6 day of February 1897.

H. P. Thompson J. P.

Virginia, Lee County, to wit:

In the office of the Clerk of the County Court for said County the 15th day of February 1897. This deed was presented and with certificate annexed, admitted to record.

Teste: S. V. F. Richmond, Clerk

A Copy,

Teste: H. S. Towing, Clerk.

John D. Morgan
v. $\frac{3}{4}$ Exhibit "3".

John Owens ex ad.

John Owens wife
vs $\frac{3}{4}$ ad.

F. E. Owens

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

John Owens,

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *1st* Monday in *February*, 190*6*, to answer a bill in chancery exhibited against *him*

by John D. Morgan

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *12th* day of *January*, 190*6*, and 1 *30th* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

Not finding the defendant John Owens at his usual place of abode, executed by delivering a true copy of the within summons to his wife Owens, and explaining to her the purport of the said summons, she being a member of his family over the age of 16 years, which service was made on the 30th day of Jan'y, 1906.

Deputy for P.M. Ball, S.L.C.

John D. Morgan

VS

}

SUBPÆNA
IN
CHANCERY.

John Owens

Per. Bros. p. q

To 1st February Rules.
Lee Circuit Court.
1906.

Executed by delivering a copy of the within to John Owens wife the place of his usual abode. This 30th day of Jan. 1906
W. B. Short D.S. for
P.M. Ball S.L.C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

John Cotrell (alias John Owens)
and Elsie Kinsler,

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the *3rd* Monday in *April*, 190*6*, *as amended*, to answer a bill in chancery exhibited against *them*
by John D. Morgan

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *29*th
day of *March*, 190*6*, and 1 *30*th year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

John D. Morgan

VS

}

SUBPŒNA
IN
CHANCERY.

John Cotrell et al.

P. Bros. p. q

To 2nd April Rules.

Lee Circuit. Court.
1906.

Executed the within
by delivering a copy
to John Cotrell &
Elsie Kincer Apr.
13, 1906. W. B. Short & S.
for P. M. Ball & L. C.

John D. Mayors Compt.

v. ^{Sumner} Dr Chomery
+ Munder Bee

John Owens. Deft.

Pennington Bros p. 7.

1906 1st February Rules

Bill filed Spd.
executed + D.N.

2nd February Rules

D.N. Confirmed and
cause set for hearing

Costs:

Clash \$8.80 pd

Shff. 1.50 pd

Atty 15.00 pd

Estimated 2.70

29.00

40.00